

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **201533018**  
Release Date: 8/14/2015  
Date: **May 18, 2015**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

X= Program  
Y= Employer  
Z= Name  
b= Number  
c= Number  
d= Number

f dollars = Amount  
g dollars= Amount

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures will not be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(c)).

**Description of your request**

Your letter indicates you will operate an employer-related scholarship program called X. X's purpose is to assist deserving students who are children of employees of Y in pursuing higher education by granting scholarships to qualified recipients to attend a two-year or four-year college, university or vocational/technical school. X will be advertised on Y's intranet, at Y's company benefit meeting, and in Y's New Employee Benefit Book.

The scholarship is a fixed award for f dollars for those attending two-year schools and for g dollars for those attending four-year schools. Students receiving f dollars may receive the award up to two years or until a certificate or an Associate's Degree is earned, whichever occurs first while students receiving g dollars may receive an award up to four years or until a Bachelor's Degree is earned whichever occurs first. The number of grants will be determined by the amount funded, the number of grants awarded to students attending two-year schools and the number of grants awarded to students attending four-year schools.

Applicants must be dependent children, age 24 and under, of full-time Y employees who have a minimum of three year's employment with the company as of the application deadline date as well as must be:

- High school seniors or graduates who plan to enroll or students who are already enrolled in full-time undergraduate study at an accredited two-year or four-year college, university, or vocational/technical school for the entire upcoming academic year.
- Have a minimum grade point average of b on a 4.0 scale (or its equivalent).

Any child of an officer or director of your organization will not be eligible to apply for the scholarship.

The awards are not renewable but students are eligible to reapply every year they meet the eligibility criteria; however, if an individual receives an award, the recipient will not be considered ineligible to reapply if the recipient's parent is no longer employed by Y.

You submitted an agreement that X will be administered, supervised, and paid out by Z. Z is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and has been classified as a publicly supported organization. Under the terms of the agreement, Z is responsible for the following:

- Management of the scholarship program according to the conditions outlined in the program description.
- Design and production of application materials as requested by Y.
- Forwarding application materials electronically to Y.
- Receipt, acknowledgment, and processing of all application materials.
- Evaluation of applications.
- Selection and notification of recipients.
- Notification of non-recipients.

- Confirmation of school enrollment.
- Payment of awards to student recipients.
- Providing management reports to summarize program activity and results.

Under this agreement, Y is responsible for:

- Specification of the eligibility guidelines for X.
- Approval of application materials.
- Placement of materials on Y's website.
- Promotion of the scholarship among the eligible group.
- Verification of recipient eligibility.
- Providing the full amount of the scholarship distribution and management fee.

Applicants will send their applications directly to Z so the selection process is completely independent of you. Selection of recipients will be based on consideration of past academic performance and potential, leadership and participation in school and community activities, work experience, demonstrated financial need, statement of career and educational aspirations and goals, and an outside appraisal from a high school or college counselor or advisor, an instructor or work supervisor.

Your program will be conducted in accordance with all of the guidelines of sections 4.01 through 4.07 of Revenue Procedure 76-47. You have agreed that your program will generally meet the requirements of either the 25 percent or 10 percent percentage test of Section 4.08 Revenue Procedure 76-47. However, you have the potential of not meeting the percentage test so you are working to increase the number of applicants in several ways including extending the application window by two weeks as well as considering lowering the grade point average to d. Moreover, you currently have identified that there are c children and/or dependents of eligible employees between the ages of 17-24; promotional materials will be sent directly to these individuals.

Based on the wide availability of the scholarship program to all employees' children you have demonstrated that the recipients will not be drawn from a specific group of employees. In particular, the selection of individual grant recipients will be made by Z. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will also not be restricted in a course of study that would be of particular benefit to Y or to you.

Z will collect information regarding your program and you agree to maintain certain information about your program in accordance with Code Section 4945(d)(3), including the following:

- The information used to evaluate the qualifications of potential grantees;
- Identification of the grantees (including any relationship of any grantee to the private foundation), the amount and purpose of each grant;
- All reports and other follow-up data obtained in administering your scholarship program.

### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- Use of the scholarship for study at an educational organization described in Code section 170(b) (1) (A) (ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants will not exceed 10 percent of the number of employees who are eligible for grants, applicants for grants, and considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures do not differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you and not cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You may report any significant changes to your program by completing Form 8940 and sending it to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- You will distribute funds to individuals on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c) (2) (B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations